

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

CLERK'S OFFICE
U.S. DISTRICT COURT
AT ROANOKE, VA
FILED
June 06, 2025
LAURA A. AUSTIN, CLERK
BY: s/ M.Poff, Deputy Clerk

WILLIAM DAVID FAIN,)	
)	
Plaintiff,)	Case No. 7:24CV00432
)	
v.)	OPINION
)	
SGT. EMILY CELOZZI, ET AL.,)	JUDGE JAMES P. JONES
)	
Defendants.)	
)	

William David Fain, Pro Se Plaintiff; Nathan H. Schnetzler, FRITH ANDERSON + PEAKE P.C., Roanoke, Virginia, for Defendants Celozzi, Bird, Smith, and Thompson; Perry H. Harrold, Martinsville, Virginia, Pro Se Defendant.

The plaintiff, a Virginia inmate proceeding pro se, filed this civil rights action under 42 U.S.C. § 1983, alleging that the defendant jail officials failed to protect him from his own actions while he was mentally incapacitated. The defendants have filed Motions to Dismiss. The court issued a Notice on December 31, 2024, notifying Fain of his opportunity to respond to the defendants' motions and submit contradictory evidence and argument. That Order also warned Fain that failure to file a timely response would result in dismissal of the case without prejudice. Fain had until January 21, 2025, to respond to the defendants' motion. He failed to do so.

The time allotted for Fain to respond to the defendants' motions has passed, and he has failed to file a timely response to those motions or to ask for additional

response time. Accordingly, I will assume that he has lost interest in the case or agrees with the defendants' arguments. Therefore, I will dismiss the action and the defendants' pending motions without prejudice. *Ballard v. Carlson*, 882 F.2d 93, 95 (4th Cir. 1989).

An appropriate Final Order will issue herewith.

ENTER: June 6, 2025

/s/ JAMES P. JONES
Senior United States District Judge